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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/394,840	09/13/1999	VOLKER BAUM	P99.1620	4964
7590 09/14/2005				
SCHIFF HARDIN & WAITE		EXAMINER		
Patent Department		HEWITT II, CALVIN L		
6606 Sears Tower		ART UNIT PAPER NUMBER		
Chicago, IL 60606-6473		3621		

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/394,840

Applicant(s)

BAUM ET AL.

Examiner

Calvin L. Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 1-20 have been examined.

Claim Objections

2. Claims 2 and 12 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 2 recites a loading step then establishing a communication link with the data center based on said loading. Claim 1, on the other hand, from which claim 1 depends, communicates with the data center first and based on said communication loads into a service device. Claim 12, dependent on claim 11, recites similar language.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The first limitation of claim 1 recites "a status report of memory location occupancy by said service data in said memory". However, according to the preamble of claim 1 the service data is remote from the service data and is not stored in the memory ("providing a memory *for* service data..." (emphasis added)). Therefore, it is not clear to one of ordinary skill how the status report is formed based on service data stored in service device memory.

The third limitation of claim 1 recites "forming recommendations in said data center for a future status of said memory location occupancy...". To one of ordinary skill, however, *memory location occupancy*, refers to the status of the status report and not to the actual memory in the service device. For example, occupancy may be "full" or "not available", hence it is not clear the meaning of the limitation "future status of said memory location occupancy".

Claim 1 also recites a data center making recommendations "designating a different memory location to be occupied by said service data". To one of ordinary skill this is unclear as service data is to be stored in a "single" *memory* ("providing a memory for service data") which could be a memory comprising a plurality of locations or plurality of memory locations (note: claim 2 cures this deficiency). For purposes of examination, the Examiner is interpreting the

"designating" step as follows: each recommendation designating the memory set aside for service data. The above also applies to claim 11 as it recites similar language.

Claims 2-10 and 12-20 are also rejected as they depend from claims 1 and 11, respectively.

Claim 2 recites a loading step then establishing a communication link with the data center based on said loading. Claim 1, on the other hand, from which claim 1 depends, communicates with the data center first and based on said communication loads into a service device. Therefore, it is unclear how the "loading" and "communicating" steps of claim 2 are implemented.

Claim 2 recites the limitation "memory areas" in lines 10, 13, 20, 24 and 28. There is insufficient antecedent basis for this limitation in the claim.

The above also applied to claim 12 as it recites similar language.

Claims 3-9 and 13-19 are also rejected as they depend from claims 2 and 12, respectively.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7, 10-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bass et al., U.S. Patent No. 6,041,319 in view of Landis et al., U.S. Patent No. 5,588,148.

As per claims 1 and 11, Bass et al. teach a method for remotely updating data in a service device comprising:

- a memory and forming in a service device a status report of memory location occupancy (abstract; column 6, lines 1-16 and 37-62; column 7, lines 12-62)
- establishing a communication between the device and a remote data center and transmitting said status report to the remote data center (abstract; column 7, lines 17-61; column 8, lines 25-40)
- forming a recommendation in said data center for a future status of memory location occupancy in the service device based on the status report and service data at the data center and communicating a message from the data center to said service device containing said recommendations (abstract; column 7, lines 55-61; column 8, lines 25-40)
- loading data communicated from the data center into the service device (first) memory, according to the recommendation (abstract; column 7, lines 55-61)

Regarding the data center designating a memory location on the service data, it is well known for a sending device to determine where a message is to be stored on a receiving device. Further, it would have been obvious to one of ordinary skill to modify Bass et al. to include such a feature in order to ensure that data, such as a rate table, can be maintained in a protected area to prevent unauthorized access and modification. Bass et al. do not specifically recite checking the recommendation for feasibility at the device. Abumehdi et al. teach loading a service data recommendation into a service device memory (figure 1; column 4, lines 20-27 and 35-58) wherein the device checks the service data recommendation for feasibility prior to loading the service data recommendation from memory (column 4, lines 20-27 and 48-61). Abumehdi et al. also teach loading service data from a first memory to a second at a conversion date (figure 1; column 4, lines 20-27 and 35-61). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Bass et al. and Abumehdi et al. in order to allow postage meter (i.e. service device) operators to obtain postage rate data (i.e. date sensitive service data recommendation) prior to, and not use until, the data is in effect ('662, column 4, line 57-61). However, neither Bass et al. nor Abumehdi et al. specifically recite a status report of memory comprising a designation of available bytes in memory. Landis et al. teach a method of transferring data from one device to another comprising a designation of available memory (column 3, lines 50-65; column 4, lines 35-43 and 65-67).

Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Bass et al., Abumehdi et al. and Landis et al. in order to more effectively distribute data such as software and/or rate updates ('319, abstract).

As per claims 2, 3, 12 and 13, regarding a check for storing data (claim 2), Landis et al. teach providing a sender with an assessment of receiver memory (column 4, lines 35-41). Specifically, Landis et al. teach the sender being provided with significant information associated with the client. To one of ordinary skill, obvious "significant information" is a receiver memory error message. Therefore, it would have obvious to forward the message to the sender in order to apprise the sender of complications on the receiver end. Regarding "table type" (claim 3), Bass et al. disclose service data such as "rate tables" (column 7, lines 24-30) associated with a plurality of rate types (column 5, lines 55-61). Hence, as different rates change at different times recommendations are a function of the rate. Bass et al. also disclose selective loading of rate tables column 7, lines 25-34). Abumehdi et al. ('662, figure 1) teach service devices as postage meters that comprise memory for storing current rate data (i.e. service data), additional memory for storing updates ('662, figure 1; column 3, lines 29-50), determining feasibility based on current service data stored in memory (column 4, lines 50-55), transmitting new service data along with a conversion date ('662, column 4, lines 37-53) and automatically updating service data according to the conversion date ('662, column 4, lines 37-61). Regarding the

periodicity of updating service data, to one of ordinary skill, this would have been an obvious automation of a known process in light of the art of updating rate tables as they apply to government and/or regulated business processes (*In re Venner*, 262 F.2d 91, 95, 120 USPQ 192, 196 (CCPA 1958)).

As per claims 4-6 and 14-16, Abumehdi et al. teach determining whether to update memory stored in a service device by comparing an effective or conversion date with a date stored (distinct from memory that stores service data) in the service device. To one of ordinary skill, this feature of the Abumehdi et al. system represents an electronic calendar module that continuously emits signals identifying a current date, otherwise the new rate information (service data) would never be loaded ('662, column 4, lines 37-61).

As per claims 7 and 17, Abumehdi et al. ('662, figure 1) teach service devices as postage meters that comprise memory for storing current rate data (i.e. service data) and combined postage meter/weight tables are old and well known. Hence, both references disclose or at least suggest, service devices that perform postage calculations based on postage rates.

As per claims 10 and 20, Bass et al. teach a data center loading data from a remote data center to a service device by telephone or other communication medium (abstract). Therefore, it would have been obvious to one of ordinary skill to use a well-known method such as data compression in order to more efficiently manage traffic over said network.

7. Claims 8, 9, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bass et al., U.S. Patent No. 6,041,319, Abumehdi et al., U.S. Patent No. 5,743,662 and Landis et al., U.S. Patent No. 5,588,148 as applied to claims 7 and 17 above, and further in view of Freestone et al., U.S. Patent No. 5,943,657.

As per claims 8, 9, 18 and 19, Bass and Abumehdi et al. teach systems and methods for updating rate and other postal data in a postage meter ('319, abstract; '662, abstract; column 4, lines 36-61). However, neither Bass et al. nor Abumehdi et al. specifically recite a plurality of proposals in a list. Freestone et al. teach storing a plurality of rates and listing the most meaningful first (column 8, lines 23-30). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Bass et al., Abumehdi et al. and Freestone et al. in order to allow update rate data to be processed in a more efficient manner by avoiding the implementation of a "sort" or "search" routine to find the next rate update.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
- Peterson et al. disclose high-speed data transfer utilizing destination device memory capacity

- Wilkes teaches sending device specifying a node identifier and a node memory

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 2100
Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for formal communications intended for entry and after-final communications),

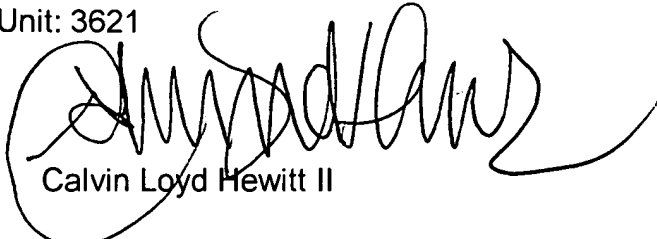
or:

(571) 273-6709 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

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A handwritten signature in black ink, appearing to read "Calvin Hewitt II", is written over a circular stamp. The signature is fluid and cursive, with the first name "Calvin" and last name "Hewitt" being more legible than the "II" suffix.

Calvin Loyd Hewitt II

September 7, 2005